

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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HAROLD SALADAR CORREOS,

Case No. 2:23-cv-00593-CDS-EJY

Plaintiff,

v.

ORDER

WESTERN PROGRESSIVE-NEVADA,
INC., NEVADA LEGAL NEWS, HOME
MEANS NEVADA INC., KRISTIN
SCHULER-HINTZ, MATTHEW DAYTON,
MICHAEL W. CHEN, RAMIR M.
HERNANDEZ, EDDIE R. JIMENEZ,
ALLIANCE BANCORP, IMPACT
FUNDING CORP, DEUTSCHE BANK NTC,
OCWEN, PHH MORTGAGE,

Defendants.

This matter comes before the Court on Plaintiff's Motions to Vacate Auction Sell and Motion for Order for Permanent Dismissal with Prejudice. ECF Nos. 3 and 4.

I. Plaintiff Fails to Assert a Basis for Jurisdiction

The Court has a duty to ensure that it has subject matter jurisdiction over a dispute on which it is asked to act. *See, e.g.,* Fed. R. Civ. P. 12(h)(3). Federal courts are courts of limited jurisdiction and possess only that power authorized by the Constitution and statute. *See Rasul v. Bush*, 542 U.S. 466, 489 (2004). "A federal court is presumed to lack jurisdiction in a particular case unless the contrary affirmatively appears." *Stock West, Inc. v. Confederated Tribes of the Colville Reservation*, 873 F.2d 1221, 1225 (9th Cir. 1989). "The party asserting federal jurisdiction bears the burden of proving that the case is properly in federal court." *McCauley v. Ford Motor Co.*, 264 F.3d 952, 957 (9th Cir. 2001) (citing *McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936)). If the Court lacks subject matter-jurisdiction, an action must be dismissed. Fed. R. Civ. P. 12(h)(3).

Federal district courts "have original [subject matter] jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331. However, Plaintiff's pending Motions present issues of state law only. ECF Nos. 3, 4.

1 Federal district courts also have subject matter jurisdiction over civil actions in diversity
 2 cases “where the matter in controversy exceeds the sum or value of \$75,000” and where the matter
 3 is between “citizens of different States.” 28 U.S.C. § 1332(a). “Section 1332 requires complete
 4 diversity of citizenship; each of the plaintiffs must be a citizen of a different state than each of the
 5 defendants.” *Morris v. Princess Cruises, Inc.*, 236 F.3d 1061, 1067 (9th Cir. 2001). Federal courts
 6 have the jurisdiction to determine their own jurisdiction. *Special Investments, Inc. v. Aero Air, Inc.*,
 7 360 F.3d 989, 992 (9th Cir. 2004). A court may raise the question of subject-matter jurisdiction sua
 8 sponte, and it must dismiss a case if it determines it lacks subject-matter jurisdiction. *Id.*; Fed. R.
 9 Civ. P. 12(h)(3). Here, Plaintiff, a Nevada resident, states claims against Nevada Legal News, and
 10 Home Means Nevada, Inc., among others. Nevada Legal News and Home Means Nevada, Inc. are
 11 Nevada formed entities. For this reason, Plaintiff cannot establish subject matter jurisdiction based
 12 on the diversity of the parties.

13 Finally, Plaintiff must serve Defendants with his Complaint before he may seek relief from
 14 the Court. Federal Rule of Civil Procedure 4 explains the process for service. The docket in this
 15 matter shows no summonses were issued and no service has been attempted on any Defendant. Each
 16 of the entities and individuals named in Plaintiff’s Complaint have Nevada business locations such
 17 that each should have a registered agent with the Nevada Secretary of State. Plaintiff may serve his
 18 Complaint together with a summons on each of these entities through its registered agent. Until
 19 service is completed, the Court will not act on any issue raised. *Jackson v. Hayakawa*, 682 F.2d
 20 1344, 1347 (9th Cir. 1982) (a federal court is without personal jurisdiction over a defendant unless
 21 the defendant has been served in accordance with Fed. R. Civ. P. 4.).

22 **II. Order**

23 Accordingly, IT IS HEREBY ORDERED that Plaintiff’s Motions to Vacate Auction Sell
 24 and Motion for Order for Permanent Dismissal with Prejudice (ECF Nos. 3 and 4) are DENIED.

25 Dated this 27th day of April, 2023.

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 27 ELAYNA J. YOUCHAK
 28 UNITED STATES MAGISTRATE JUDGE